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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,969	02/28/2002	Edward L. Simonds		4220
24236	7590	07/15/2003		
BRETT J. TROUT 300 S.W. 5TH SUITE 222 DES MOINES, IA 50309			EXAMINER [REDACTED]	CUEVAS, PEDRO J
			ART UNIT [REDACTED]	PAPER NUMBER 2834

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/085,969	SIMONDS, EDWARD L.
	<b>Examiner</b>	<b>Art Unit</b>
	Pedro J. Cuevas	2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 April 2002.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 April 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)                  4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                  5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4/02.                  6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The corrected or substitute drawings were received on April 16, 2002. These drawings are acceptable.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Fluid Pressure Regulator Assembly With Dual Axis Electrical Generator.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 19 recites the limitation "of claim 21". There is insufficient antecedent basis for this limitation in the claim. The examiner has assumed this is a typographical error and has examined the claim as if it depended of claim 18.

The examiner also requests a review of the dependencies of claims 18 and 20 for consistency.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4, 11-12, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,957,007 to Thomas.

Thomas clearly teaches the construction of an air powered water propulsion method and apparatus comprising:

means (10) for providing a pressurized fluid (air);  
a first means/pressurized fluid line (18) coupled to said providing means for transporting a pressurized fluid;  
second means/pressurized fluid line (22) for transporting a pressurized fluid;  
a fluid regulator (12) coupled to said first transporting means and to said second transporting means; and  
means (16) coupled between said first means and said fluid regulator for converting pressurized fluid into mechanical power in the form of rotational motion, i.e. mechanical energy, (used by propeller 26); wherein said converting means is a vane motor (24) comprising a plurality of vanes in fluid communication with said first providing means.

9. With regards to claim 17, Thomas disclose a method for converting pressurized fluid into power comprising:
- providing a fluid regulator;
  - providing pressurized fluid to said regulator; and
  - converting said pressurized fluid to mechanical motion prior to said pressurized fluid reaching said fluid regulator.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,957,007 to Thomas in view of U.S. Patent No. 3,702,938 to Garnier.

Thomas discloses the construction of an air powered water propulsion method and apparatus as described above.

However, it fails to disclose an electrical generator coupled to said converting means.

Garnier teach the construction of an electric generator drive having an electrical generator (Figure 1) for the purpose of providing an electric generator device for use at an underwater drilling installation.

It would have been obvious to one skilled in the art at the time the invention was made to use the electric generator drive disclosed by Garnier on the air powered water propulsion

apparatus disclosed by Thomas for the purpose of providing an electric generator device for use at an underwater drilling installation.

12. With regards to claims 18-20, Thomas in view of Garnier disclose converting said mechanical motion to electricity, and monitoring said electricity and regulating said mechanical motion sufficiently to produce said electricity at a substantially predetermined rate.

13. Claims 6-9 and 14-16 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 3,957,007 to Thomas in view of U.S. Patent No. 6,412,280 to Simonds.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Thomas discloses the construction of an air powered water propulsion method and apparatus as described above, also having means coupled to said fluid regulator for allowing breathing of a fluid passing through the regulator.

However, it fails to disclose the motor comprising:

- an outer race centered about a first axis;
- an inner race centered about a second axis;
- wherein said first axis is different from and parallel to said second axis;
- a vane coupled for movement relative to said inner race; and

Simonds teach the construction of a fluid motor comprising:

- an outer race (26) centered about a first axis;
- an inner race (30) centered about a second axis;
- wherein said first axis is different from and parallel to said second axis; and
- a vane (44, 54) coupled for movement relative to said inner race,

for the purpose of providing a long-wearing motor capable of withstanding vane contact with small amounts of particulate matter.

It would have been obvious to one skilled in the art at the time the invention was made to use the fluid motor disclosed by Simonds on the air powered water propulsion apparatus disclosed by Thomas for the purpose of providing a long-wearing motor capable of withstanding vane contact with small amounts of particulate matter.

14. Claims 10, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,957,007 to Thomas in view of U.S. Patent No. 6,412,280 to Simonds as

applied to claims 6-9 and 14-16 above, and further in view of U.S. Patent No. 3,702,938 to Garnier.

Thomas in view of Simonds discloses the construction of an air powered water propulsion method and apparatus as described above.

However, it fails to disclose an electrical generator coupled to said converting means, said converting means being a turbine.

Garnier teach the construction of an electric generator drive having an electrical generator and a turbine (Figure 1) for the purpose of providing an electric generator device for use at an underwater drilling installation.

It would have been obvious to one skilled in the art at the time the invention was made to use the electric generator drive disclosed by Garnier on the air powered water propulsion apparatus disclosed by Thomas for the purpose of providing an electric generator device for use at an underwater drilling installation.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro J. Cuevas whose telephone number is (703) 308-4904. The examiner can normally be reached on M-F from 8:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R. Ramírez can be reached on (703) 308-1371. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Pedro J. Cuevas  
July 8, 2003



KARL TAMAI  
PRIMARY EXAMINER